

BOSTON REDEVELOPMENT AUTHORITY

REPORT AND DECISION ON THE APPLICATION, AS AMENDED, BY NEW ENGLAND IMMOBILIARE FOR AUTHORIZATION AND APPROVAL OF A PROJECT UNDER CHAPTER 121A OF THE MASSACHUSETTS GENERAL LAWS (TER. ED.), AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, AS AMENDED.

A. The Hearing. A public hearing was held on March 23, 1978, at the offices of and by the Boston Redevelopment Authority (hereinafter called the "Authority") on an Application, as amended (the "Application"), filed by Immobiliare New England, a Massachusetts joint venture of Immobiliare Boston, Inc., a Massachusetts corporation and Canopus, Inc., a Delaware corporation (hereinafter collectively referred to as the "Applicant"), for authorization and approval of a redevelopment project under G.L., c. 121A, and c. 652 of the Acts of 1960, as amended (the "Project"), due notice of said hearing having been given previously by publication on March 8, 1978, and March 15, 1978 in the Boston Herald American, a daily newspaper of general circulation published in Boston, and on March 15, 1978, in the Charlestown Patriot, in accordance with the provisions of Rule 8 of the Authority's Rules and Regulations for Securing Approval of Projects in Boston under c. 121A, as amended through November 21, 1974 (the "Regulations") and Section 13 of c. 652 of the Acts of 1960.

Robert L. Farrell, Chairman of the Authority, and James G. Colbert, Joseph J. Walsh, James Flaherty and James Cofield, members of the Authority, were present throughout the hearing.

B. The Project. The project includes rehabilitation of the historical buildings for residential and commercial use providing 649 dwelling units and 17,000 square feet of ground floor retail space as well as construction of appurtenant amenities such as parking garages, private and public landscaped parks, recreational facilities, marinas, and a roof top restaurant. Construction of a 384 unit mid-rise apartment and townhouse complex, a 32 unit townhouse complex and 25 separate townhouses is also planned. At least 10% of the total number of dwelling units in the Boston Naval Shipyard will be developed as elderly housing.

The Applicant, pursuant to a development agreement executed with this Authority, proposes to implement the Project in eight (8) phases. The specific details of these phases as to components and timing are set forth in the Application and in said development agreement. In addition, alternative plans and specifications are proposed for the construction of townhouses on Piers 5, 6 or 7, again, as set forth in and permitted by the development agreement.

C. Authority Action. In passing upon the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, (specifically including, without limiting the generality of the foregoing, the development agreement), the studies and investigations of the Project Area and vicinity and the environmental aspects of the Project made by the Authority staff and by consultants, the oral evidence presented at the hearing, the exhibits offered in evidence at the hearing and the arguments and statements made at the hearing. The members of the Authority are also familiar with the Project Area.

D. The Project Area. The Project Area consists of a portion of the Boston Naval Shipyard at Charlestown and includes five (5) historically significant buildings, five (5) piers and approximately Fifty-Eight and Fifty-Eight Hundreths (58.58) acres. The Project as defined in the Application constitutes a "Project" within the meaning of G.L., c. 121A, §1 providing, as it does, for the construction in a blighted, open and decadent area of decent, safe and sanitary residential buildings and appurtenant commercial facilities, as described above, which are in the public interest, and for the operation and maintenance of such buildings and facilities after construction. The Project Area, as part of the Charlestown Urban Renewal Area, was declared by the Authority, with the approval of the City Council of the City of Boston and the concurrence of other appropriate state agencies, to be such a blighted, open and decadent area. Said determination was made under G.L., c. 121B.

The Authority hereby further finds that the Project Area is a blighted, open and decadent area within the meaning of said section. In particular, the Authority finds that upon the basis of evidence submitted at the hearing and several site condition examinations conducted by its staff, and consideration of the history of the navy yard that the abandonment of the navy yard by the federal government has resulted in the availability of a large mass of land and piers which would be unduly costly to develop soundly through the ordinary operations of private enterprise because of the existence of filled land and piers of uncertain bearing capacity, deteriorated site improvements requiring substantial demolition, piers and other paved areas which must be graded and landscaped at undue expense and the need for improved street systems and on-site

parking. Furthermore, the entire yard has suffered a drastic change in business and economic conditions because of the abandonment and there now remain several buildings which are out of repair and obsolete and not likely to be productive again until rehabilitated and converted to new uses. The Authority, through its extensive experience with the principles of adaptive re-use, is mindful of the fact that proposed rehabilitation is not likely to occur without the benefits of Chapter 121A because of the economic impositions necessary to maintain or restore buildings, such as those in question, which are on the National Register of Historic Buildings.

The Project will provide substantial benefits to the City of Boston. The creation of a residential complex of the size and nature proposed will have a positive impact on the tax base and will assist in the creation of job opportunities. Furthermore, it will enhance the attractiveness of the public recreational area being constructed by the Authority and will result in additional waterfront amenities available to the public. Lastly, it will unquestionably stimulate the balance of the navy yard being acquired by the Authority under various provisions of federal law governing the disposition of surplus property. The Applicants have reached agreement with the City to make payments in lieu of taxes in excess of the minimum required by G.L., c. 121A, §10, and in amounts well within the guidelines for projects of this type and location.

E. Cost of the Project. In the opinion of the Authority, the minimum cost of the first phase of the Project has been fairly and realistically estimated at Twenty Million (\$20,000,000.00) Dollars and at Seventy-Five Million (\$75,000,000.00) Dollars if all phases are completed in accordance

with the development agreement. The Authority approves the financing proposal set forth in Paragraph 9 of the Application for the financing of the Project. The Authority makes this general approval while noting that the land in question is not to be acquired by the Applicant until and unless it has satisfied the conditions precedent for disposition in the development agreement, which conditions are such that the interest of the public in assuring the completion of a phase in the Project is very adequately protected. The basic financing proposals are customary in transactions of this type and character and are consistent with the Authority's experience in similar redevelopment proposals. However, in no event is borrowing for any phase to exceed ninety (90%) per cent of the estimated cost for any phase.

The dedication of some or all of any phase of the Project to condominiums pursuant to G.L., c. 183A, or cooperative ownership pursuant to G.L., c. 156B, is permitted and a transfer of condominium, cooperative or fee simple interest in a unit or units is permitted, provided, however, that following such a transfer, said unit or units would no longer be subject to or benefitted by the provisions of c. 121A and the Section 6A Agreement. Such sales, which must nevertheless be subject to the conditions of transfer set forth in the development agreement, shall not violate the agreements executed pursuant to the Application and shall not adversely affect the rights of the Applicant hereunder.

F. Consistency with Master Plan. The Project does not conflict with the expired master plan for the City of Boston, which plan was prepared by the Authority, and, more importantly, the Project is consistent with the Charlestown Urban Renewal Plan and reflects the recommendations and requirements of this Authority.

G. Effect of Project. The Authority deems this exciting Project to be feasible, necessary and desirable because it reflects the substantial efforts of several and varied agencies of the federal, state and local governments to convert the navy yard to productive uses consistent with the overall needs of the City of Boston. This open, blighted and decadent area is to be acquired by the Authority and conveyed to the Applicant, who is ready, willing and able to produce the Project, which will result in a residential, commercial, retail and recreational use of the highest caliber design and construction. Obviously, this will stimulate additional sound growth throughout the navy yard and beyond. It is clear that the Project will not be in any way detrimental to the best interests of the public or the City or to the public safety or convenience or to be inconsistent with the most suitable development of the City.

There are no displacements required for the Project and no part of the Project Area has been approved by the State Department of Public Works for the extension of the Massachusetts Turnpike into the City of Boston.

Although garages will be constructed as part of certain phases, the garages will be wholly within the proposed improvements and primarily available for residents of said improvements. As such, the Authority has determined that if it should cause any property within Five Hundred (500') Feet of any proposed garage to be used for a school, hospital or church, then the proposed garages would not be detrimental to any such school, hospital or church.

The Project does not require or involve the construction of units which constitute a single building under the Boston Building Code and Zoning Law.

H. Minimum Standards. The minimum standards for financing, construction, maintenance and management of the Project as set forth in Exhibit C, as amended, filed with and attached to the Application are hereby adopted and imposed as rules and regulations (in addition to those hereinafter adopted and imposed) applicable to this Project for the same period as the Project is subject to the provisions of G.L., c. 121A and c. 652 of the Acts of 1960, as amended. These standards do not affect the standards, responsibilities, duties and obligations of the Authority or the Applicant as set forth in the development agreement.

I. Environmental Aspects of the Project. In conformance with the applicable provisions of G.L., c. 30, §61 and 62, as amended, the regulations of the Authority and of the Executive Office of Environmental Affairs thereunder, and Paragraph 5(f) of the Regulations, the Authority has found and determined that the Project will not result in significant damage to or impairment of the environment and, further, that all practicable and feasible means and measures have been taken and are being utilized to avoid or minimize damage to the environment, and makes the following findings and observations:

1. The Projects does not adversely affect any recreational area or area of important aesthetic values.
2. The Project does not adversely affect the potential use, extraction or conservation of a scarce natural resource.
3. The Project does not adversely affect archeological or historic features and, in fact, preserves significant, historic buildings.
4. The Project Area contains no rare or endangered wildlife or fish species.

5. The site is urban and contains no significant fish, wildlife or plant life.
6. The Project will require deviations from the Zoning Code of the City of Boston as further detailed herein, but not in such manner as will cause significant damage to the environment.
7. The Project does involve the construction of facilities in a flood plain, but mitigation measures will be implemented in accordance with applicable regulations.
8. The Project, except to a limited extent necessary during the construction phase, does not result in the generation of a significant amount of noise or dust.
9. The Project does not adversely affect an area of important scenic value.
10. The Project will not have any adverse impact on the quality of Boston's water supply, nor will it have any significant adverse impact on the water quality of the Boston Harbor.
11. The Project will have minimal impact on the air quality of the area.
12. The Project will have no impact on the water table of the area.
13. The Project will have a positive impact on the visual characteristics of the area.

The Authority notes that on January 12, 1978, the Secretary of Environmental Affairs issued a statement that the Final Environmental Impact Report submitted by this Authority with respect to an amendment to the Charlestown Urban Renewal Plan so as to include the navy yard

within the project area adequately and properly complied with G.L., c. 30, §62. The Project is consistent with that Report and, accordingly, all environmental review requirements of §62 have been satisfied. The Authority has informed the Secretary of this determination.

J. Amendments. By a letter of March 22, 1978, the Applicant requested that the Application be amended by substituting revisions of Exhibits A, C, D-1, D-1A and E, in order to reflect minor changes in the description of the Project Area, in the terms of the proposed minimum standards and tax contracts and in the request for deviations from the zoning code. These changes have been reviewed by the Chief General Counsel and are not deemed to be fundamental. Accordingly, the Authority, after reviewing the same, deems that the substitution of said exhibits is minor and not fundamental and the Application as so amended is approved.

K. Deviations. Exhibit E, as amended, filed with and attached to the Application lists the Zoning Code deviations required for Project construction. For the reasons set forth in the Application and supporting documents, including said Exhibit E, and in evidence presented at the hearing, and in this Report, the Authority hereby finds that each and every one of the permissions hereinafter granted is reasonably necessary for the carrying out of the total Project and may, subject to such conditions as are hereinafter set forth with respect thereto respectively, be granted without substantially derogating from the intent and purposes of the applicable laws, codes, ordinances and regulations, respectively; and the Authority is also satisfied by reliable and generally accepted tests, or by experience in other cities that the other designs, construction, materials, apparatus, equipment or methods specified in the

Application and supporting documents, including Exhibit E, and in the evidence presented at the hearing, will sufficiently satisfy the purposes for which it or they are to be used and the purpose of the applicable laws, codes, ordinances or regulations, respectively.

In summary, permission is granted to deviate from each of the sections referred to in said exhibit and to the extent set forth in said exhibit, with the exception of the request for elimination of a required loading space for Parcel 1-A. These deviations reflect the need to permit rehabilitation and construction of the Project in accordance with the dictates of this Authority as set forth in the Urban Renewal Plan and the development program set forth in the development agreement. The Project has been carefully considered and reviewed by the Authority with respect to its location and has determined it to be consistent with and sympathetic to the surrounding area in terms of use, size, massing, bulk and design. The particular dimensional deviations reflect a sensitive, realistic, minimal and necessary modification of the code to permit the implementation of the Project.

L. Miscellaneous. The Applicant will require three (3) months after final approval of the Project, or such longer time as may be necessary to acquire the first phase pursuant to the development agreement, to determine whether to carry out the first phase of the Project. The Authority will request the Assessor of the City of Boston to determine, pursuant to G.L., c. 121A, §10, that the Maximum Fair Market Value of each phase will be as set forth in the Section 6A contracts to be executed by and between the applicant and the City and, further, that the Assessor

provide reasonably satisfactory evidence that previous assessments of land and improvements in each phase did not exceed such Maximum Fair Market Value.

The Authority recognizes that the Applicant, pursuant to the terms of the development agreement, may acquire each phase by a technically separate entity, and the Authority finds that such an acquisition will in accordance with G.L., c. 121A, §10, result in each such phase receiving equivalent statutory and contractual tax treatment. Each and every transfer permitted hereunder or under the development agreement, is for the purposes of the within approval deemed approved and permitted transferees are to be entitled to the benefits accruing hereunder.

The Authority hereby finds that the Application, as amended, and such aspects of the Project as are within its jurisdiction conform to and comply with each and every applicable requirement of G.L., c. 121A, as amended, c. 652 of the Acts of 1960, as amended, and the Regulations applicable thereto; and the Authority, for the foregoing reasons and for the reasons set forth in the Application and supporting documents, and based upon the evidence presented at the hearing, recited in this Report, and in the materials referred to in this Report, hereby approves the Application and the Project.

## MEMORANDUM

April 13, 1978

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT F. WALSH, DIRECTOR

SUBJECT: REPORT AND DECISION ON THE CHAPTER 121A  
APPLICATION OF IMMOBILIARE NEW ENGLAND  
CHARLESTOWN URBAN RENEWAL AREA

On March 23, 1978, the Authority conducted a public hearing with respect to the above-captioned application. The Applicant made a detailed presentation and there were no opponents to the granting of the application.

The staff has examined the application and found that it contained sufficient evidence in support of the Project to permit the Authority to make those findings and determinations necessary to proceed with the adoption of the attached Report and Decision approving the Project. The Project consists of an exciting residential complex on the waterfront which, together with other development activities of the Authority in the Navy Yard, will have a significant and positive effect upon the community.

Since the efforts and desires of the Authority are completely reflected in the application and the Project is the subject of a Land Disposition Agreement by and between the Applicant and the Authority, it is recommended that the Authority adopt the attached Report and Decision so that progress might continue.

An appropriate vote follows.

VOTED: That the document presented at this meeting entitled: "Report and Decision on the Application, as amended, by Immobiliare New England for Authorization and Approval of a Project Under Chapter 121A of the Massachusetts General Laws (Ter.Ed.), as amended, and Chapter 652 of the Acts of 1960, as amended" be and is hereby approved and adopted.

